

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN ASSEMBLY MAY 5, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1960

Introduced by Assembly Member Lackey
(Coauthors: Assembly Members Bigelow, Dodd, and Frazier)
(Coauthor: Senator Galgiani)

February 12, 2016

An act to amend Section 34501.12 of, and to add Section 34500.6 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, as amended, Lackey. Vehicles: Basic Inspection of Terminals program.

Existing law, the Basic Inspection of Terminals (BIT) program, makes it unlawful for a motor carrier to operate a specified type of vehicle, including, but not limited to, combination of a motortruck and a specified vehicle or vehicles that exceeds 40 feet in length when coupled together, without identifying to the Department of the California Highway Patrol all terminals, as defined, in this state where vehicles may be inspected by the department and where vehicle inspection and maintenance records and driver records will be made available for inspection. Existing law requires motor carriers to make vehicles and records available for inspection upon request by an authorized representative of the department.

This bill would exclude an agricultural vehicle from being subject to the BIT program, and would define agricultural vehicle to mean a

vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating of 26,000 pounds or less if specified conditions are met, including that the vehicle is operated by certain individuals and is used exclusively in the conduct of agricultural ~~operations~~. *operations when operating in commerce.*

This bill would incorporate changes to Section 34500.6 of the Vehicle Code, as proposed to be added by this bill, that would become operative only if AB 995 is enacted on or before January 1, 2017, and adds Section 36103 to the Vehicle Code.

This bill would incorporate additional changes to Section 34501.12 of the Vehicle Code proposed by AB 995, that would become operative only if this bill and AB 995 are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 34500.6 is added to the Vehicle Code,
- 2 to read:
- 3 34500.6. For purposes of this division, an agricultural vehicle
- 4 is a vehicle or combination of vehicles with a gross combination
- 5 weight rating or a gross vehicle weight rating of 26,000 pounds
- 6 or less if all of the following conditions are met:
- 7 (a) Is operated by a farmer, an employee of a farmer, or an
- 8 instructor credentialed in agriculture as part of an instructional
- 9 program in agriculture at the high school, community college, or
- 10 university level.
- 11 (b) Is used exclusively in the conduct of agricultural ~~operations~~.
- 12 *operations when operating in commerce.*
- 13 (c) Is not used in the capacity of a for-hire carrier or for
- 14 compensation.
- 15 (d) The towing vehicle has a gross weight rating of 16,000
- 16 pounds or less.
- 17 (e) Is used solely in intrastate commerce.
- 18 SEC. 1.5. Section 34500.6 is added to the Vehicle Code, to
- 19 read:
- 20 34500.6. (a) For purposes of this division, an agricultural
- 21 vehicle is a vehicle or combination of vehicles with a gross

1 combination weight rating or a gross vehicle weight rating of
2 26,000 pounds or less if all of the following conditions are met:

3 (1) Is operated by a farmer, an employee of a farmer, or an
4 instructor credentialed in agriculture as part of an instructional
5 program in agriculture at the high school, community college, or
6 university level.

7 (2) Is used exclusively in the conduct of agricultural operations
8 when operating in commerce.

9 (3) Is not used in the capacity of a for-hire carrier or for
10 compensation.

11 (4) The towing vehicle has a gross weight rating of 16,000
12 pounds or less.

13 (5) Is used solely in intrastate commerce.

14 (b) This section does not apply to a motor vehicle that is subject
15 to Section 36103.

16 SEC. 2. Section 34501.12 of the Vehicle Code is amended to
17 read:

18 34501.12. (a) Vehicles and the operation thereof, subject to
19 this section, are those described in subdivision (a), (b), (e), (f), (g),
20 (j), or (k) of Section 34500, except an agricultural vehicle as
21 defined in Section 34500.6.

22 (b) It is unlawful for a motor carrier to operate any vehicle of
23 a type described in subdivision (a) without identifying to the
24 department all terminals, as defined in Section 34515, in this state
25 where vehicles may be inspected by the department pursuant to
26 paragraph (4) of subdivision (a) of Section 34501 and where
27 vehicle inspection and maintenance records and driver records will
28 be made available for inspection. Motor carriers shall make
29 vehicles and records available for inspection upon request by an
30 authorized representative of the department. If a motor carrier fails
31 to provide vehicles and records, an unsatisfactory terminal rating
32 shall be issued by the department.

33 (1) The number of vehicles that will be selected for inspection
34 by the department at a terminal shall be based on terminal fleet
35 size and applied separately to a terminal fleet of power units and
36 trailers, according to the following schedule:

	Fleet Size	Representative Sample
37		
38		
39	1 or 2	All
40		

1	3 to 8	3
2	9 to 15	4
3	16 to 25	6
4	26 to 50	9
5	51 to 90	14
6	91 or more	20

7
8 (2) The lessor of any vehicle described in subdivision (a) shall
9 make vehicles available for inspection upon request of an
10 authorized representative of the department in the course of
11 inspecting the terminal of the lessee. This section does not affect
12 whether the lessor or driver provided by the lessor is an employee
13 of the authorized carrier lessee, and compliance with this section
14 and its attendant administrative requirements does not imply an
15 employee-employer relationship.

16 (c) (1) The department may inspect any terminal, as defined in
17 Section 34515, of a motor carrier who, at any time, operates any
18 vehicle described in subdivision (a).

19 (2) The department shall adopt rules and regulations establishing
20 a performance-based truck terminal inspection selection priority
21 system. In adopting the system's rules and regulations, the
22 department shall incorporate methodologies consistent with those
23 used by the Federal Motor Carrier Safety Administration, including
24 those related to the quantitative analysis of safety-related motor
25 carrier performance data, collected during the course of inspection
26 or enforcement contact by authorized representatives of the
27 department or any authorized federal, state, or local safety official,
28 in categories, including, but not limited to, driver fatigue, driver
29 fitness, vehicle maintenance, and controlled substances and alcohol
30 use. The department shall also incorporate other safety-related
31 motor carrier performance data in this system, including citations
32 and accident information. The department shall create a database
33 to include all performance-based data specified in this section that
34 shall be updated in a manner to provide real-time information to
35 the department on motor carrier performance. The department
36 shall prioritize for selection those motor carrier terminals never
37 previously inspected by the department, those identified by the
38 inspection priority selection system, and those terminals operating
39 vehicles listed in subdivision (g) of Section 34500. The department
40 is not required to inspect a terminal subject to inspection pursuant

1 to this section more often than once every six years, if a terminal
2 receives a satisfactory compliance rating as the result of a terminal
3 inspection conducted by the department pursuant to this section
4 or Section 34501, or if the department has not received notification
5 by the system of a motor carrier operating while exceeding the
6 threshold of the inspection selection priority system. Any motor
7 carrier that is inspected and receives less than a satisfactory
8 compliance rating, or that falls below the threshold of the selection
9 priority system, shall be subject to periodic inquiries and
10 inspections as outlined in subdivision (f), and these inquiries and
11 inspections shall be based on the severity of the violations.

12 (3) As used in this section and Section 34505.6, subdivision (f)
13 of Section 34500 includes only those combinations where the gross
14 vehicle weight rating of the towing vehicle exceeds 10,000 pounds,
15 but does not include a pickup truck or any combination never
16 operated in commercial use, and subdivision (g) of Section 34500
17 includes only those vehicles transporting hazardous material for
18 which the display of placards is required pursuant to Section 27903,
19 a license is required pursuant to Section 32000.5, or for which
20 hazardous waste transporter registration is required pursuant to
21 Section 25163 of the Health and Safety Code. Notwithstanding
22 Section 5014.1, vehicles that display special identification plates
23 in accordance with Section 5011, historical vehicles, as described
24 in Section 5004, implements of husbandry and farm vehicles, as
25 defined in Chapter 1 (commencing with Section 36000) of Division
26 16, and vehicles owned or operated by an agency of the federal
27 government are not subject to this section or Section 34505.6.

28 (d) It is unlawful for a motor carrier to operate, or cause to be
29 operated, any vehicle that is subject to this section, Section 34520,
30 or Division 14.85 (commencing with Section 34600), unless the
31 motor carrier is knowledgeable of, and in compliance with, all
32 applicable statutes and regulations.

33 (e) It is unlawful for a motor carrier to contract or subcontract
34 with, or otherwise engage the services of, another motor carrier,
35 subject to this section, unless the contracted motor carrier has
36 complied with subdivision (d). A motor carrier shall not contract
37 or subcontract with, or otherwise engage the services of, another
38 motor carrier until the contracted motor carrier provides
39 certification of compliance with subdivision (d). This certification
40 shall be completed in writing by the contracted motor carrier in a

1 manner prescribed by the department. The certification, or a copy
2 of the certification, shall be maintained by each involved party for
3 the duration of the contract or the period of service plus two years,
4 and shall be presented for inspection immediately upon the request
5 of an authorized employee of the department. The certifications
6 required by this subdivision and subdivision (b) of 34620 may be
7 combined.

8 (f) (1) An inspected terminal that receives an unsatisfactory
9 compliance rating shall be reinspected by the department within
10 120 days after the issuance of the unsatisfactory compliance rating.

11 (2) ~~When~~ If a motor carrier's Motor Carrier of Property Permit
12 or Public Utilities Commission operating authority is suspended
13 as a result of an unsatisfactory compliance rating, the department
14 shall not conduct a reinspection for permit or authority
15 reinstatement until requested to do so by the Department of Motor
16 Vehicles or the Public Utilities Commission, as appropriate.

17 (g) A motor carrier issued an unsatisfactory terminal rating may
18 request a review of the rating within five business days of receipt
19 of the notification of the rating. The department shall conduct and
20 evaluate the review within 10 business days of the request.

21 (h) The department shall publish performance-based inspection
22 completion data and make the data available for public review.

23 (i) This section shall be known, and may be cited, as the Basic
24 Inspection of Terminals program or BIT program.

25 *SEC. 2.5. Section 34501.12 of the Vehicle Code is amended to*
26 *read:*

27 34501.12. (a) Vehicles and the operation thereof, subject to
28 this section, are those described in subdivision (a), (b), (e), (f), (g),
29 (j), or (k) of Section ~~34500~~: 34500, *except an agricultural vehicle*
30 *as defined in Section 34500.6.*

31 (b) It is unlawful for a motor carrier to operate any vehicle of
32 a type described in subdivision (a) without identifying to the
33 department all terminals, as defined in Section 34515, in this state
34 where vehicles may be inspected by the department pursuant to
35 paragraph (4) of subdivision (a) of Section 34501 and where
36 vehicle inspection and maintenance records and driver records will
37 be made available for inspection. Motor carriers shall make
38 vehicles and records available for inspection upon request by an
39 authorized representative of the department. If a motor carrier fails

to provide vehicles and records, an unsatisfactory terminal rating shall be issued by the department.

(1) The number of vehicles that will be selected for inspection by the department at a terminal shall be based on terminal fleet size and applied separately to a terminal fleet of power units and trailers, according to the following schedule:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(2) The lessor of any vehicle described in subdivision (a) shall make vehicles available for inspection upon request of an authorized representative of the department in the course of inspecting the terminal of the lessee. This section does not affect whether the lessor or driver provided by the lessor is an employee of the authorized carrier lessee, and compliance with this section and its attendant administrative requirements does not imply an employee-employer relationship.

(c) (1) The department may inspect any terminal, as defined in Section 34515, of a motor carrier who, at any time, operates any vehicle described in subdivision (a).

(2) The department shall adopt rules and regulations establishing a performance-based truck terminal inspection selection priority system. In adopting the system's rules and regulations, the department shall incorporate methodologies consistent with those used by the Federal Motor Carrier Safety Administration, including those related to the quantitative analysis of safety-related motor carrier performance data, collected during the course of inspection or enforcement contact by authorized representatives of the department or any authorized federal, state, or local safety official, in categories, including, but not limited to, driver fatigue, driver fitness, vehicle maintenance, and controlled substances and alcohol use. The department shall also incorporate other safety-related

1 motor carrier performance data in this system, including citations
2 and accident information. The department shall create a database
3 to include all performance-based data specified in this section that
4 shall be updated in a manner to provide real-time information to
5 the department on motor carrier performance. The department
6 shall prioritize for selection those motor carrier terminals never
7 previously inspected by the department, those identified by the
8 inspection priority selection system, and those terminals operating
9 vehicles listed in subdivision (g) of Section 34500. The department
10 is not required to inspect a terminal subject to inspection pursuant
11 to this section more often than once every six years, if a terminal
12 receives a satisfactory compliance rating as the result of a terminal
13 inspection conducted by the department pursuant to this section
14 or Section 34501, or if the department has not received notification
15 by the system of a motor carrier operating while exceeding the
16 threshold of the inspection selection priority system. Any motor
17 carrier that is inspected and receives less than a satisfactory
18 compliance rating, or that falls below the threshold of the selection
19 priority system, shall be subject to periodic inquiries and
20 inspections as outlined in subdivision (f), and these inquiries and
21 inspections shall be based on the severity of the violations.

22 (3) As used in this section and Section 34505.6, subdivision (f)
23 of Section 34500 includes only those combinations where the gross
24 vehicle weight rating of the towing vehicle exceeds 10,000 pounds,
25 but does not include a pickup truck or any combination never
26 operated in commercial use, and subdivision (g) of Section 34500
27 includes only those vehicles transporting hazardous material for
28 which the display of placards is required pursuant to Section 27903,
29 a license is required pursuant to Section 32000.5, or for which
30 hazardous waste transporter registration is required pursuant to
31 Section 25163 of the Health and Safety Code. Notwithstanding
32 Section 5014.1, vehicles that display special identification plates
33 in accordance with Section 5011, historical vehicles, as described
34 in Section 5004, implements of husbandry and farm vehicles, as
35 defined in Chapter 1 (commencing with Section 36000) of Division
36 ~~16, 16 with the exception of vehicles operating in the pilot program~~
37 *established pursuant to Section 36103*, and vehicles owned or
38 operated by an agency of the federal government are not subject
39 to this section or Section 34505.6.

1 (d) It is unlawful for a motor carrier to operate, or cause to be
2 operated, any vehicle ~~which~~ *that* is subject to this section, Section
3 34520, or Division 14.85 (commencing with Section 34600), unless
4 the motor carrier is knowledgeable of, and in compliance with, all
5 applicable statutes and regulations.

6 (e) It is unlawful for a motor carrier to contract or subcontract
7 with, or otherwise engage the services of, another motor carrier,
8 subject to this section, unless the contracted motor carrier has
9 complied with subdivision (d). A motor carrier shall not contract
10 or subcontract with, or otherwise engage the services of, another
11 motor carrier until the contracted motor carrier provides
12 certification of compliance with subdivision (d). This certification
13 shall be completed in writing by the contracted motor carrier in a
14 manner prescribed by the department. The certification, or a copy
15 of the certification, shall be maintained by each involved party for
16 the duration of the contract or the period of service plus two years,
17 and shall be presented for inspection immediately upon the request
18 of an authorized employee of the department. The certifications
19 required by this subdivision and subdivision (b) of 34620 may be
20 combined.

21 (f) (1) An inspected terminal that receives an unsatisfactory
22 compliance rating shall be reinspected by the department within
23 120 days after the issuance of the unsatisfactory compliance rating.

24 (2) ~~When~~ *If* a motor carrier's Motor Carrier of Property Permit
25 or Public Utilities Commission operating authority is suspended
26 as a result of an unsatisfactory compliance rating, the department
27 shall not conduct a reinspection for permit or authority
28 reinstatement until requested to do so by the Department of Motor
29 Vehicles or the Public Utilities Commission, as appropriate.

30 (g) A motor carrier issued an unsatisfactory terminal rating may
31 request a review of the rating within five business days of receipt
32 of the notification of the rating. The department shall conduct and
33 evaluate the review within 10 business days of the request.

34 (h) The department shall publish performance-based inspection
35 completion data and make the data available for public review.

36 (i) This section shall be known, and may be cited, as the Basic
37 Inspection of Terminals program or BIT program.

38 ~~(j) This section shall become operative on January 1, 2016.~~

39 *SEC. 3. Section 1.5 of this bill shall become operative only if*
40 *Assembly Bill 995 is enacted and becomes effective on or before*

1 *January 1, 2017, and adds Section 36103 to the Vehicle Code, in*
2 *which case Section 1 of this bill shall not become operative.*
3 *SEC. 4. Section 2.5 of this bill incorporates amendments to*
4 *Section 34501.12 of the Vehicle Code proposed by both this bill*
5 *and Assembly Bill 995. It shall only become operative if (1) both*
6 *bills are enacted and become effective on or before January 1,*
7 *2017, (2) each bill amends Section 34501.12 of the Vehicle Code,*
8 *and (3) this bill is enacted after Assembly Bill 995, in which case*
9 *Section 2 of this bill shall not become operative.*

O